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Motionless Keyboard Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

FLIR SYSTEMS, INC., an Oregon
corporation

Plaintiff,

v.

THOMAS L. GAMBARO, an individual;
MOTIONLESS KEYBOARD COMPANY,
an Oregon corporation,

Defendants.

Case No. CV 10-0231-BR

**DECLARATION OF JAMES L.
BUCHAL**

James L. Buchal states:

1. I am counsel to defendant Motionless Keyboard Company (MKC) and make this Declaration in support of the motion of MKC to dismiss this action as against it, or, in the alternative, for summary judgment of dismissal.

2. I represented MKC in the former case of *MKC v. Microsoft et al.*, No. 04-180-AA (D. Or.) until December 12, 2005, when I was granted a motion to withdraw. Thereafter, was engaged to pursue a partially-successful appeal of Judge Aiken's ruling, which restored the validity of the patent on May 29, 2007, followed by a petition for writ

of certiorari to continue the appeal of the infringement claims, which was denied by the Supreme Court on January 8, 2008.

3. Thereafter, Motionless Keyboard Company dissolved; attached as Exhibit 1 is a copy of a printout of records of the Oregon Secretary of State I retrieved through its website, reflecting an administrative dissolution effective April 11, 2008.

4. It is my understanding that the assets of MKC were either destroyed by fire or distributed to Mr. Gambaro and that he held the patent until March 2010, when he purported to assign it to the Patent Enforcement Company, which is registered as an assumed business name under Oregon law. Attached as Exhibit 2 is a copy of a printout of records of the Oregon Secretary of State I retrieved through its website reflecting the registration of the name on March 30, 2010. Attached as Exhibit 3 is a copy of a printout of records of the U.S. Patent Office which I retrieved through its website reflecting an assignment of the patent from Mr. Gambaro to Patent Enforcement Company on March 31, 2010.

5. I do not think that it makes any sense to assign a patent to an assumed business name, and I would refer the Court to Mr. Gambaro's declaration for why he subsequently attempted to have a dissolved corporation assign the patent to an assumed business entity.

6. I have offered counsel for plaintiff to stipulate to a dismissal with prejudice of claims involving MKC, but that offer has been rejected. I have also explained the facts and circumstances supporting this motion, and on that basis speculate that plaintiff's real purpose is to attempt to win this litigation by default by requiring Mr. Gambaro to engage counsel, which he cannot afford.

I certify under penalty of perjury that the foregoing is true and correct.

DATED: September 17, 2010.

MURPHY & BUCHAL LLP

s/ James L. Buchal

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Attorney for Defendant,

Motionless Keyboard Company

CERTIFICATE OF SERVICE

I certify that on September 17, 2010, the foregoing Declaration of James L. Buchal will be electronically filed with the Court's electronic court filing system, which will generate automatic service upon all parties enrolled to receive such notice. The following will be manually served by first class U.S. mail:

Thomas L. Gambaro
P.O. Box 14741
Portland, OR 97293

s/ Carole A. Caldwell